



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 14, 1996

Mr. Yuri Calderón
Houston Independent School District
Hattie Mae White Administration Building
3830 Richmond Avenue
Houston, Texas 77027-5838

96-0333

Dear Mr. Calderón:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID # 38306.

The Houston Independent School District ("HISD") received a request for certain information relating to the requestor:

1. Copies of all files, documents, and recordings of information that were used in the formulation and completion of any and all personnel assessments of a specific employee;
2. Copies of all communication and minutes of any meeting between community members, business leaders, or HISD employees and the administration, where the subject discussed directly or indirectly concerned the requestor's performance as East District superintendent, including copies of calendar pages that demonstrate the time and/or place such meetings were to occur as well as the names of the people who were in attendance.
3. A complete record and copies of the performance indicators used to judge the requestor's performance, including data and table of data produced by HISD or TEA that were used to draw conclusions about the requestor's performance;
4. All notes concerning the requestor's performance in HISD in possession of HISD personnel.

5. A comprehensive set of copies of any and all materials contained in the requestor's personnel file

You acknowledge that most of the information requested is either public or that the employee has a special right of access to the information. However, you have submitted certain documents under Exhibits "A," "B," "C," and "D" for our review that you contend are excepted from required public disclosure under section 552.107 of the Government Code.

Section 552.107 excepts information if:

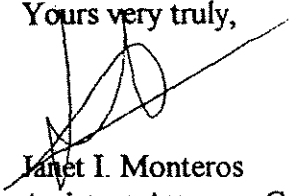
(1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct; or...

You claim that the documents you have submitted as Exhibits "A," "B," "C," and "D" are excepted from disclosure because Rule 1.05(a)(1) of the Texas State Bar Disciplinary Rules of Professional Conduct prevents disclosing "confidential" information of a client. Rule 1.05(a) defines "confidential information" to include both "privileged information" protected under rule 503 of the Texas Rules of Civil Evidence and "unprivileged information," which includes all other client information held by a lawyer. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5.

We have reviewed the documents submitted for our review. We agree that some of the records may be withheld under section 552.107 and have marked them accordingly. The remaining records must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,


Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/ch

Ref.: ID# 38306

Enclosures: Marked documents

cc: Mr. Hector Ibarra
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(w/o enclosures)